IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 8971 of 2007(R)

E.P.34/2003 IN OS.336/1998 of II ADDL.SUB COURT,THRISSUR

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PETITIONER:

DAISY, W/O. PULIKKOTTIL MATHEW,
AYYANTHOLE VILLAGE DESOM,
THRISSUR TALUK.

BY ADV. SRI.D.ANIL KUMAR

RESPONDENT:

SAKTHAN KURIES & LOANS (P) LTD.,
CHEMBUKKAVU VILLAGE, THRISSUR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 8971 of 2007 R

JUDGMENT

The judgment debtor in O.S.No.336/98 on the file of the II Additional Sub Court, Thrissur is the petitioner. Her grievance is that thirteen cents of property, belonging to her, is brought to sale, as per Exhibit P3 sale proclamation; that the property is worth Rupees twenty lakhs and that only a portion of the property would be required to satisfy the decree debt. This contention is seen raised in W.P.(C)No.23546/04, which was disposed of by this Court vide Exhibit P1 judgment dated 14.7.2006. This Court granted the petitioner the benefit of discharging the debt in instalments with the consent of the decree holder, directing that Rupees twenty thousand has to be paid or deposited in the court below for payment to the decree holder within one month from the date of that judgment and that within five more months the entire balance

amount has to be paid.

2. Counsel for the petitioner submits that apart from paying Rupees twenty thousand ordered to be paid as the first instalment, no further amount was paid. Had amounts been paid in compliance with the directions in Exhibit P1 judgment, the debt would have been cleared by this time. It is also worthy to note that the petitioner, who contended that sale of a portion only of the property of thirteen cents, which takes in also a building, would be sufficient to satisfy the debt, has not established before the court below that any portion from the said thirteen cents could be feasibly carved out, so as to have that portion separately sold. May be that the building therein is so located that it would not be possible to carve out any extent from that thirteen cents to be sold separately, so as to satisfy the debt. Further, there is no evidence also to show that the property will fetch Rupees twenty lakhs, as contended by the

petitioner/judgment debtor. In the circumstances, the contentions now raised before me by the petitioner/judgment debtor cannot be countenanced, so as to stall the sale proceedings pursuant to Exhibit P3 sale proclamation. It is also worthy to note that the value, contended by the petitioner/ judgment debtor, is also incorporated in Exhibit P3 proclamation, so as to enable the intending bidders to have an idea of the value of the property.

In the circumstances, this writ petition is devoid of merit and is dismissed.

16th March, 2007 (K.P.Balachandran, Judge)

tkv